

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KEVIN LINDKE,

Plaintiff,

Case No. 19-cv-11905
Hon. Matthew F. Leitman

v.

HON. CYNTHIA A. LANE, *et al.*,

Defendants.

/

**ORDER (1) DENYING PLAINTIFF'S MOTION TO VACATE TEXT ONLY
ORDER (ECF No. 55) AND (2) PERMITTING PLAINTIFF TO FILE
RESPONSE TO DEFENDANTS' SUPPLEMENTAL FILING (ECF No. 52)**

In this action, Plaintiff Kevin Lindke alleges that Defendants Judge Cynthia A. Lane and Timothy Donnellon have violated his constitutional rights. (*See* Sec. Am. Compl., ECF No. 21.) Judge Lane and Donnellon have each moved to dismiss Lindke's claims. (*See* Judge Lane Mot. to Dismiss, ECF No. 29; Donnellon Mot. to Dismiss, ECF No. 34.)

On October 30, 2020, Judge Lane filed a motion to present additional legal argument in support of her motion to dismiss. (*See* Mot., ECF No. 52.) The Court granted that motion in a text order that was also entered on October 30, 2020. (*See* Dkt.)

Lindke asserts that the Court should not have allowed Judge Lane to file, and should not consider, her supplemental arguments. Accordingly, on November 23,

2020, he filed a motion to vacate the Court's text only order that granted Judge Lane's motion to present her additional legal arguments. (*See Mot. to Vacate*, ECF No. 55.)

For the reasons the Court has previously explained during several on-the-record status conferences, the Court believes that it was appropriate to grant Judge Lane's motion to present additional legal arguments. The arguments raised in that motion are directly relevant to the issues raised in the motions to dismiss. In addition, the arguments speak, at least in part, to the Court's subject matter jurisdiction, which can be raised at any time. The Court therefore **DENIES** Lindke's motion and declines to vacate its October 30, 2020, text order. However, the Court will permit Lindke to file a response to Judge Lane's supplemental filing. If Lindke wishes to file such a response, he shall do so by no later than **February 15, 2021**.

IT IS SO ORDERED.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: January 22, 2021

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on January 22, 2021, by electronic means and/or ordinary mail.

s/Holly A. Monda

Case Manager

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